

February 21, 2014

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
February 21, 2014

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:12 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Garrett P. FitzGerald, Chairman; James B. Anderson, Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Jeff Shuck (by telephone), Roneta Taylor (by telephone), Mark Magill (by telephone), and Mike Quinlan (by telephone), Illinois Department of Central Management Services; Justin Stofferahn (by telephone), Governor's Office; Brent Eggleston (by telephone), Illinois Department of Agriculture; Emily Monk (by telephone), Illinois Department of Commerce and Economic Opportunity; Jane Bachman (by telephone), Barb Call (by telephone), and Jennifer Stout (by telephone), Illinois Department of Insurance; and Beth Duesterhaus (by telephone) and Connie Westfall (by telephone), Administrative & Regulatory Shared Services Center.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD JANUARY 17, 2014

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD JANUARY 17, 2014.

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Executive Director Daniel Stralka offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.

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V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Illinois Dept. of Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	139.....	16
Agriculture.....	324.....	18
Arts Council.....	16.....	2
Capitol Development Board.....	46.....	0
Central Management Services.....	1,452.....	113
Children and Family Services.....	2,682.....	50
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	367.....	66
Commerce Commission.....	74.....	0
Corrections.....	10,726.....	99
Criminal Justice Authority.....	55.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	84.....	5
Employment Security.....	1,371.....	30
Environmental Protection Agency.....	785.....	17
Financial & Professional Regulation.....	409.....	45
Gaming Board.....	148.....	6
Guardianship and Advocacy.....	102.....	7
Healthcare and Family Services.....	2,022.....	25
Historic Preservation Agency.....	154.....	15
Human Rights Commission.....	13.....	2
Human Rights Department.....	138.....	9
Human Services.....	11,092.....	76
Illinois Torture Inquiry Relief Commission.....	5.....	1
Insurance.....	217.....	16
Investment Board.....	3.....	2
Juvenile Justice.....	971.....	21
Labor.....	82.....	11
Labor Relations Board Educational.....	9.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.....	18.....	2
Lottery.....	144.....	6
Military Affairs.....	120.....	3
Natural Resources.....	1,075.....	30
Pollution Control Board.....	21.....	2
Prisoner Review Board.....	16.....	0
Property Tax Appeal Board.....	28.....	1
Public Health.....	1,060.....	41
Racing Board.....	2.....	1
Revenue.....	1,689.....	52
State Fire Marshal.....	133.....	12
State Police.....	1,086.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems.....	94.....	2
Transportation.....	2,163.....	0
Veterans' Affairs.....	1,256.....	9
Workers' Compensation Commission.....	133.....	10
TOTALS.....	42,565.....	841

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported the following regarding the proposed 4d(3) exemption requests and indicated he would address Items C and E together since both were from the same agency and involved State Fairs.

- As to Item C, this request is from the Department of Agriculture and was continued from last month after the agency clarified the position description just prior to the meeting. It is for an Assistant State Fair Manager, a position that reports to the State Fair Manager who reports to the Assistant Director who reports to the Director. The State Fair Manager was first granted exempt status in 2003. Now the agency is splitting the responsibilities for running the State Fair between the State Fair Manager who would retain principal policy responsibility for traditional fair activities and this new position which would have principal policy responsibility for the entertainment portion of the fair. This is a textbook case of an agency having a program that supports an exempt position, then divides the program's responsibilities in an attempt to support an additional exempt position. The only problem with this is that it can conflict with the statutory language that Section 4d(3) exemptions be limited to those positions with "principal" policy responsibility. Historically, the Commission has approved such requests when it finds a sufficient amount of principal policy responsibility remains in both positions to justify exempt status. When the principal policy responsibility is excessively diluted by such a division or the additional positions have an insufficient amount of independent decision-making authority, the Commission will deny the request.

With regard to this request, Staff tentatively recommended approval based on the amount of independent authority that the agency vested in this position to make decisions in this limited regard and commit the expenditure of agency funds. The entertainment portion of the State Fair encompasses responsibility for eight free stages with an expenditure of \$150,000 as well as the grandstand which books 20 paid acts with a payout around \$1,500,000. Staff also took into account how the perceived success or failure of the State Fair is typically the subject of much media scrutiny. The agency also indicated this position would have promotional responsibilities related to the State Fair. Staff was less convinced by this assertion. The agency already has two other positions involved in promotional activities that are 4d(3) exempt. This would make a third and is another example of dilution of program responsibility among multiple positions to make it nearly impossible to identify which would have sufficient responsibility to support a principal policy exemption.

Brent Eggleston, Illinois Department of Agriculture, indicated that this was an accurate description of the agency's request. Commissioner Krey asked what had changed in the State Fair program area to prompt the need for this exempt position. Eggleston responded that the agency was striving for growth in the State Fair. Planning has already started for this year's State Fair and the assistance of this position is needed for this planning. Commissioner Krey indicated she did not understand this response. She asked again if there has been any changes in

the State Fair program. Brent Eggleston responded as to how changes are planned for the Happy Hollow area as an example of changes to the State Fair. Chairman FitzGerald inquired as to whether this position and Item E will be full-time or seasonal. Brent Eggleston indicated they were both full-time positions. He reiterated how planning for the following year's State Fair starts immediately after the end of the current State Fair. Commissioner Anderson asked the agency representative to respond to the Staff's concern regarding dilution of program responsibility. Brent Eggleston stated that both the State Fair Manager and Assistant State Fair Manager would work in conjunction with each other in planning for and running the State Fair. Commissioner Anderson cited the language of Section 4d(3) and asked how this position would fill one or both statutory requirements. Brent Eggleston reiterated how the requested position would work with the State Fair Manager. Chairman FitzGerald inquired if the agency had already made an appointment to this position. Brent Eggleston indicated it had not. Commissioner Krey commented that she still was unable to identify the required principal policy component to this request. Brent Eggleston replied that this position was needed to help promote the upcoming State Fair. Chairman FitzGerald asked the agency representative to provide examples of policy decisions this position will be making. Brent Eggleston indicated it would be booking new entertainment and expanding the types of entertainment acts that would be offered. Chairman FitzGerald asked what this position's responsibilities are while the State Fair was in progress. Brent Eggleston indicated he was unsure but thought it would involve making sure the entertainment acts went off as planned.

- As to Item E, this request is for the Du Quoin State Fair Manager at the Department of Agriculture, a position that reports to the Chief of Staff who reports to the Director. This position has principal policy responsibility for the operation of the Du Quoin State Fair as well as the Du Quoin State Fairgrounds. Du Quoin is a State Fair that occurs for ten days in late August, and the Fairgrounds host other events throughout the year. This division has an annual budget of close to \$5,000,000 to hold events and maintain the 1,200 acre property, 68 buildings, 30 miles of roads and a campground.

This is a position similar to the State Fair Manager referenced above, but on a smaller scale. The real issue here is whether this program is sufficiently prominent to warrant a principal policy exemption. Executive Director Stralka noted that it is not unusual for a stand-alone facility to warrant a principal policy exempt position. Correctional facilities and Human Services Developmental Centers all have exempt positions due to the challenges of operating such stand-alone facilities. The State Fair is analogous to this situation as well as the Sparta Trap Shooting Complex which has an exempt position running the facility. These latter two are both unique operations, not duplicated anywhere else in the State except here in Du Quoin. At the same time, not every State campground or facility is entitled to an exempt position to operate it. If the Commissioners agree that the Du Quoin State Fair is sufficiently unique and prominent a program, then exemption would be warranted in this matter. In any event, if an exemption is ultimately granted, Executive Director Stralka suggested that it be made clear that

it is due to the unique nature of the Du Quoin State Fair and Fairgrounds and not meant to serve as precedent that any stand-alone State facility is entitled to a principal policy exempt position to operate it.

Brent Eggleston indicated that this was an accurate description of the agency's request. Commissioner Cummings asked about the number of buildings on the Du Quoin Fairgrounds. Executive Director Stralka replied that it was 68, and that this information had not been timely furnished to the Commissioners due to a late agency response.

- As to Item D, the Illinois Department of Revenue indicated it wished to withdraw this request.
- As to Item F, this request is for a Manager of Legislative Information at the Department of Commerce and Economic Opportunity, a position that reports to the Manager of the Legislative Affairs Office who reports to the Director. This position was first granted an exemption in 2003, but had the exemption rescinded for extended vacancy in 2009. The agency now seeks to reinstate the exemption. The position description is essentially the same as what was approved in 2003.

This position responds to legislative and constituent inquiries in the agency's legislative office, but in this case with an emphasis on statewide grant program and tax incentive matters. While this function is also performed on a limited basis by the exempt Grant Unit Manager position, the agency contends that the size of the program warrants approving this request. The grant program this position is responsible for consists of approximately 50 individual grants totaling almost \$2,000,000,000. It is also responsible for a dozen tax incentive programs such as the film tax credit and Economic Development for a Growing Economy program or EDGE credits. These have been in the news recently. Given that this position was previously granted an exemption and considering the size and nature of the grants and tax incentive programs, Staff recommended approval of this request.

Staff indicated it has concerns when legislative positions are presented for exemption, such as this one, that include responding to constituent inquiries as an essential function. "Constituent inquiries" is a generic phrase that could include such non-qualifying activities as answering the telephone. For these reasons, as a rule of thumb Staff will not recommend approval of legislative office positions that spend more than half their time responding to constituent inquiries as opposed to legislative communications. The agency indicated in this case that constituent inquiries make up less than 25% of its job functions.

Emily Monk, Chief Operations Officer, Illinois Department of Commerce and Economic Opportunity, indicated that this was an accurate description of the agency's request noted that a provisional appointment to the position had already been made. Commissioner Cummings asked about the number of grant programs that the agency had exclusive of the ones supporting this request. Emily Monk then corrected the Staff presentation that the reference is to 50 grant programs, not

individual grants. Monk also clarified that this position does not manage the grant programs but responds to legislative and constituent inquiries about these grant programs. Chairman FitzGerald inquired about the appointment to the position and it was explained how agencies are allowed to make provisional appointments to positions that had been submitted to the Civil Service Commission for consideration pending a final decision by the Commission. Chairman FitzGerald asked that this information be included in the materials provided to the Commissioners.

- As to Item G, this request is for the Health Information Technology Exchange Program Director at the Department of Insurance, a position that reports to the Director. The Health Information Technology Exchange is a program with its roots in the Affordable Care Act. It is envisioned to facilitate the electronic exchange of health information and health insurance information. Two positions were first presented to the Commission for exemption in 2010. The Commission granted an exemption for a Health Care Insurance Program Director, but granted this exemption for only two years. That was because there was a great deal of uncertainty regarding which entity would ultimately end up responsible for this Exchange. It could be the Department of Insurance, a new Authority created by the General Assembly, or it could be taken over by the federal government. That uncertainty remained in 2012 when the exemption was granted for another two years. It is now 2014 and the uncertainty persists. Staff had a conversation with the Department of Insurance and it was agreed that the best course of action would be to seek another two year extension. Staff recommended approval of another two year term exemption for this position.

Staff then noted that the Civil Service Commission Minutes from 2012 indicate that the legislature had already created a Health Information Exchange Authority. This is not accurate. Legislation remains pending to do so and is precisely the reason why the uncertainty persists regarding this exemption. Staff went on to clarify that if approved the two year exemption would start from this meeting, not expiration of previous term. It would expire on the day of the Commission's regularly scheduled meeting for that 24th month which in this case would be the third Friday of January 2016. Staff explained that this was being explained for the benefit of agencies and Central Management Services to make it clear when term exemptions expire.

Jane Bachman, CFO, Illinois Department of Insurance, indicated that this was an accurate description of the agency's request.

Chairman FitzGerald then returned the discussion to Item C and noted his personal experience with managing events similar to the State Fair and how the booking of entertainment acts requires a specialized skill set. He indicated he was in favor of this request. Commissioner Urlacher asked why the agency would need new and different assistance with this program if nothing's changed in the program area. Brent Eggleston indicated he did not have a response to that but noted this position would be negotiating cost savings for the State. Commissioner Krey inquired about who has been performing these responsibilities prior to this

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request. After brief additional discussion, it was the consensus of the Commissioners to continue this request to allow the agency to provide additional information responsive to their various inquiries. Commissioner Cummings concluded the discussion by asking the agency to be able to respond to the inquiry, "Does the buck stop with this position?"

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 TO ACCEPT THE WITHDRAWAL OF THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

D: Assistant General Counsel, Revenue

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 5-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR TWO YEARS FOR THE FOLLOWING POSITION:

G: Health Information Technology Exchange Program Director, Insurance

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 4-1, WITH COMMISSIONER KREY VOTING NO, TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

E: Du Quoin State Fair Manager, Agriculture

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0, WITH COMMISSIONER CUMMINGS RECUSING HERSELF, TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

F: Manager of Legislative Information, Commerce & Economic Opportunity

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER URLACHER, AND THE MOTION ADOPTED 5-0 TO CONTINUE TO MARCH 21, 2014 THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:

C: Assistant Illinois State Fair Manager, Agriculture

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The following 4d(3) exemption request was withdrawn February 21, 2014:

D. Illinois Department of Revenue

Position Number	40070-25-07-100-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Legal Services Office/Administrative Office
Functional Title	Assistant General Counsel
Incumbent	Vacant
Supervisor	General Counsel, who reports to the Director
Location	Sangamon County

The following 4d(3) exemption request was granted February 21, 2014 for two years:

G. Illinois Department of Insurance

Position Number	40070-14-40-000-00-01 (exemption expires 3/21/14)
Position Title	Senior Public Service Administrator
Bureau/Division	Health Information Technology Exchange
Functional Title	Health Information Technology Exchange Program Director
Incumbent	Elizabeth Diaz-Castillo
Supervisor	Director
Location	Cook County

The following 4d(3) exemption requests were granted on February 21, 2014:

E. Illinois Department of Agriculture

Position Number	40070-11-06-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Executive Office
Functional Title	Du Quoin State Fair Manager
Incumbent	Vacant
Supervisor	Chief of Staff who reports to the Director
Location	Perry County

F. Illinois Department of Commerce & Economic Opportunity

Position Number	37015-42-00-210-00-01 (previously rescinded 8/21/09)
Position Title	Public Service Administrator
Bureau/Division	Legislative
Functional Title	Manager of Legislative Information
Incumbent	Vacant
Supervisor	Manager of Legislative Affairs Office who reports to the Director
Location	Cook County

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The following 4d(3) exemption request was continued to March 21, 2014 on February 21, 2014:

C. Illinois Department of Agriculture

Position Number	40070-11-12-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Illinois State Fair
Functional Title	Assistant Illinois State Fair Manager
Incumbent	Vacant
Supervisor	Illinois State Fair Manager who reports to the Assistant Director, who in turn reports to the Director
Location	Sangamon County

- Executive Director Daniel Stralka then addressed Items H1 and H2, noting these proposed rescissions were continued from the November 2013 meeting because the agencies indicated that new appointments were going to be made to these extended vacant positions imminently. Executive Director Stralka confirmed that both positions were now filled so it was the Staff recommendation to deny these proposed rescissions.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 5-0 TO DENY THE PROPOSED RESCISSIONS FROM 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

Item	Position Number	Agency	Functional Title
H1	40070-42-00-740-00-01	CEO	High Performance Work Place
H2	40070-20-06-201-00-11	DPH	Regional Health Officer - Rockford

VI. CLASS SPECIFICATIONS

- None submitted

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER ANDERSON, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

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VII. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER ANDERSON, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

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VIII. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 12:03 p.m.

PRESENT

Chairman Garrett P. FitzGerald; James B. Anderson, Anita M. Cummings, Susan Moylan Krey, and Casey Urlacher, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; and Jeff Shuck (by telephone), Illinois Department of Central Management Services.

IX. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored.

Agency	12/31/13	1/31/14	1/31/13
Children and Family Services	0	0	3
Employment Security	0	0	1
Healthcare and Family Services	0	0	2
Human Services	0	0	1
Insurance	0	0	1
Natural Resources	0	0	4
Revenue	0	0	5
State Police Merit Board	0	0	1
Transportation	0	0	4
Veterans' Affairs	0	0	2
Totals	0	0	24

X. REMANDED APPEAL OF MARIAH WELCH¹

DA-20-11

Employee	Mariah Welch	Appeal Date	09/14/10
Agency	Corrections	Decision Date	05/20/11
Type	Discharge	ALJ	Andrew Barris
Circuit Court Decision on Remand of 1/10/14			60-day suspension in lieu of discharge.

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE CIRCUIT COURT'S DIRECTIVE TO IMPOSE A 60-DAY SUSPENSION IN LIEU OF DISCHARGE.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

S-48-12

Employee	Frank J. Roman III	Appeal Date	03/15/12
Agency	State Police	Decision Date	02/10/14
Appeal Type	Suspension	Proposal for	Suspension upheld.
ALJ	Daniel Stralka	Decision	

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT THE WRITTEN CHARGES HAVE BEEN PARTIALLY PROVEN AND WARRANT THE 20-DAY SUSPENSION FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED FEBRUARY 10, 2014.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

¹ The Administrative Law Judge's Proposal for Decision dated May 6, 2011 recommended a 60-day suspension in lieu of discharge. On May 11, 2011 the Commission's final decision was a 14-day suspension in lieu of discharge. On Administrative Review (11-MR-307 and 4-12-0114), the Appellate Court affirmed the Circuit Court's judgment affirming the Commission's decision that it had jurisdiction but reversed the Commission's decision to decrease Welch's suspension. The case was remanded to the Circuit Court with directions to remand to the Commission, directing it to reinstate the 60-day suspension proposed by the Administrative Law Judge. The Circuit Court's order of remand was received by the Commission on January 17, 2014.

LA-7-12²

Employee	Katherine Levin	Appeal Date	08/10/11
Agency	Educational Labor Relations Board	Decision Date	01/15/14
Appeal Type	Layoff	Proposal for Decision	No violation.
ALJ	Andrew Barris		

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER CUMMINGS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES HAS BEEN PROVEN BY A PREPONDERANCE OF THE EVIDENCE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED JANUARY 15, 2014.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

LA-41-13

Employee	Robert R. Gesualdo	Appeal Date	04/18/13
Agency	Employment Security	Decision Date	01/22/14
Appeal Type	Layoff	Proposal for Decision	No violation.
ALJ	Andrew Barris		

IT WAS MOVED BY COMMISSIONER URLACHER, SECONDED BY COMMISSIONER ANDERSON, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT NO VIOLATION OF THE PERSONNEL CODE OR PERSONNEL RULES HAS BEEN PROVEN BY A PREPONDERANCE OF THE EVIDENCE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED JANUARY 22, 2014.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

RV-13-13

Employee	Katherine Levin	Appeal Date	09/27/12
Agency	Educational Labor Relations Board	Decision Date	01/15/14
Appeal Type	Rule Violation	Proposal for Decision	Violation of Section 302.570 (b) of the Personnel Rules.
ALJ	Andrew Barris		

² LA-7-12 and RV-13-13 were consolidated pursuant to Section 1.212 of the Rules of the Civil Service Commission.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL THAT A VIOLATION OF SECTION 302.570(B) OF THE PERSONNEL RULES OCCURRED WHEN LEVIN WAS NOT PLACED ON A REEMPLOYMENT LIST OR RECALLED FROM SUCH A LIST. THE AGENCY IS DIRECTED TO COME INTO COMPLIANCE WITH THE PERSONNEL RULES.

**FITZGERALD YES ANDERSON YES
 CUMMINGS YES KREY YES
 URLACHER YES**

RV-32-13

Employee	Pamela Benson	Appeal Date	02/22/13
Agency	Corrections	Decision Date	01/23/14
Appeal Type	Rule Violation	Proposal for	No Violation.
ALJ	Andrew Barris	Decision	

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO REMAND IT TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE AND SOLICITING ADDITIONAL ARGUMENT PURSUANT TO SECTION 1.290 OF THE RULES OF THE CIVIL SERVICE COMMISSION.

XII. APPEALS DISMISSED WITH NO DECISION ON MERITS

DA-16-14

Employee	Andrew R. Garrett	Appeal Date	12/27/13
Agency	Revenue	Decision Date	01/21/14
Appeal Type	Discharge	Proposal for	Dismissed subject to approval of Commission; charges voluntarily withdrawn.
ALJ	Andrew Barris	Decision	

DA-20-14

Employee	Scott S. Conder	Appeal Date	01/10/14
Agency	Corrections	Decision Date	02/03/14
Appeal Type	Discharge	Proposal for	Dismissed subject to approval of Commission; withdrawn.
ALJ	Andrew Barris	Decision	

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER URLACHER, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S PROPOSALS TO DISMISS THE APPEALS.

FITZGERALD	YES	ANDERSON	YES
CUMMINGS	YES	KREY	YES
URLACHER	YES		

XIII. AMENDMENT TO THE PERSONNEL RULES

Assistant Executive Director Andrew Barris explained to the Commissioners that there was a proposed amendment to Section 302.795 to add language regarding an agency’s placement of an employee on administrative leave. The additional language allows an agency to relieve an employee from “normal” duties through administrative leave while also assigning the employee “alternative duties.” The employee would remain on paid status and must be available to the employer upon request. The agency would have to determine whether alternative duties exist and inform any applicable investigative body and the Director of the Illinois Department of Central Management Services of the need for the administrative leave and any reassignment to alternative duties. Jeff Shuck, Legal Services-Illinois Department of Central Management Services, concurred with this presentation. Executive Director Daniel Stralka explained that the Commissioners need not take any action on this agenda item unless they want to disapprove of the amendment.

Section 302.795 Administrative Leave

- a) With the approval of the Director of Central Management Services (“CMS”), an agency head may relieve an employee from normal duty when extraordinary circumstances and the best interest of the agency and the State of Illinois will be served in doing so.
 - 1) For purposes of this Section, normal duty is defined as those regularly-assigned duties for which the employee is responsible on the date the employee is placed on administrative leave.
 - 2) The employing agency shall determine, as soon as is practicable under the circumstances, whether alternative duties exist, consistent with all applicable laws, rules, and collective bargaining agreements, that may be performed by the employee in lieu of administrative leave. Whether placed on administrative leave or temporarily reassigned to such alternative duties, an employee must follow all directives of the employing agency, including those regarding contact with individuals and materials involved in the matter resulting in the employee being placed on administrative leave or temporarily reassigned.

- 3) While on administrative leave, an employee remains in pay status and must be available to the employing agency upon request. Except as otherwise required by law, an employee on administrative leave who for any reason needs or desires to be unavailable must request and utilize applicable accrued benefit time. The employing agency may require that an employee whose regularly scheduled work hours are not consistent with the agency's normal business hours be available during those normal business hours.
- 4) Secondary employment is generally discouraged while an employee is on administrative leave. An employee on administrative leave is prohibited from engaging in secondary employment during the employee's normally scheduled work hours. In addition to the conditions contained in this Section, any secondary employment request is subject to review and approval under an employing agency's policies, procedures, and forms for secondary employment.
- b) Circumstances warranting this leave must be of an extraordinary nature and are limited to those situations where no alternative means, such as suspension or temporary reassignment of an employee, will adequately protect the best interest of the agency and the State of Illinois.
- c) Duration of an administrative leave shall be no longer than necessary to protect the best interest of the agency and the State of Illinois. The leave shall initially be for no longer than 60 calendar days, but may be extended for additional periods of time, not to exceed 60 days each, for only as long as is necessary to protect the best interest of the agency and the State of Illinois.

Where a matter is referred to an investigative body, whether inside or outside the employing agency, including, but not limited to, an Inspector General or the Illinois State Police, the employing agency shall contact the investigating authority as soon as is practicable after placing an employee on administrative leave. The employing agency shall determine, including through discussion with the investigating authority, whether the employing agency should proceed to address the underlying matter independent of the investigating authority. At a minimum, the employing agency shall contact any investigating authority prior to each extension of administrative leave to determine whether continued use of administrative leave is warranted in light of such investigation and such contact shall be reported to CMS. Prior to seeking an extension of administrative leave, the employing agency shall reassess whether the employing agency should proceed to address the underlying matter independent of the investigating authority.

- d) Administrative leave shall not be used as an alternative to Suspension Pending Decision on Discharge or Suspension Pending Judicial Verdict pursuant to Section 302.710 and Section 302.785 ~~of this Part.~~

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- e) Administrative leave shall not be allowed in lieu of vacation, sick leave, personal business leave or any other type of paid or unpaid leave when the other leave is appropriate, nor shall administrative leave be used to circumvent rules governing limits on other leaves available to an employee.
- f) The employing agency will immediately provide the affected employee written notice of the administrative leave, and the agency ~~shall~~will also ~~immediately~~ report any administrative leave to CMS the Department of Central Management Services as soon as is practicable, but no longer than 5 business days after the affected employee is placed on administrative leave.
- g) In addition to placing the affected employee on administrative leave, the employing agency shall separately report to the Director of CMS in detail its justification for placing the employee on administrative leave and why temporary reassignment to alternative duties, a suspension or other means of protecting the best interest of the agency and the State of Illinois are not available. This report shall be filed as soon as practicable, but no longer than 10 business days after the affected employee is placed on administrative leave. This report of justification shall be considered confidential pursuant to 80 Ill. Adm. Code 304.40.
- h) Failure by an employee to comply with this Section or the directions provided by the employing agency with respect to administrative leave may result in discipline, up to and including discharge.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

XIV. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The Commission's CFO position remains vacant and he has assumed most of the responsibilities until a replacement is appointed.
- Andrew Barris put together a searchable database of Commission decisions for use by Administrative Law Judges in preparing Proposals for Decision and other appeal determinations. This will better enable the Commission to rely on historical precedent in making appeal final decisions.

Executive Director Stralka made a brief presentation to the Commissioners regarding the benefits and drawbacks of making audio recordings of Commission meetings to be used in preparation of meeting minutes. After a discussion in which all Commissioners participated, it was the consensus of the Commissioners to continue the current practice and allow the Staff to conduct some additional research on this issue.

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XV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, March 21, 2014 at 11:00 a.m. in the Commission's Chicago office.

XVI. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 12:15 P.M.